

REMARKS

Claims 1, 2, 4-14, 16, and 17 are now pending in the application. Claims 11-14 and 16-17 stand rejected. Claims 11 and 17 have been amended to selectively remove a few instances of the word "flat." No new matter has been presented. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

REJECTION UNDER 35 U.S.C. § 112

Claims 11-14 and 16-17 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement, specifically regarding "flat" sheets. This rejection is respectfully traversed.

Applicants respectfully point out that the specification as originally filed recites that, "[a]lthough the sheet metal 104 has an arc length surface curvature by an angularity of at least 30 degrees as shown in angle 102, the method is equally applicable to flat sheets." Paragraph [0019]. Additionally, Applicants respectfully assert that the language "...equally applicable to flat sheets" as combined with the extensive detail of the various methods of making the composite structure, would be sufficiently understood by a practitioner. The practitioner would not review Applicants' Paragraph [0019] in isolation, but would review the entirety of the disclosure and teachings as related to curved sheets and "equally appl[y]" the teachings to the flat sheets. Accordingly, the § 112, first paragraph written description rejection is improper. Reconsideration and removal of the rejection of the claims are respectfully requested.

Claims 11-14 and 16-17 also stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject

matter which Applicants regard as the invention, specifically regarding “flat” sheets. This rejection is respectfully traversed.

Applicants have removed selected recitations of “flat” from claims 11 and 17 where the sheets would be in curvilinear form due to treatment in the tool cavity. Accordingly, the § 112, second paragraph rejection is now moot. Reconsideration and removal of the rejection of the claims are respectfully requested.

REJECTION UNDER 35 U.S.C. § 103

Claims 11-14 and 16 remain rejected under 35 U.S.C. § 103(a) as being unpatentable over Seeliger et al. (U.S. Pat. No. 6,090,232) in view of Rashid et al. (U.S. Pat. No. 6,253,588). This rejection is respectfully traversed.

Claim 17 remains rejected as being unpatentable over Seeliger et al. in view of Baumeister (U.S. Patent No. 5,151,246) and further in view of Rashid et al. This rejection is respectfully traversed.

Seeliger et al. discloses that the piece to be molded needs to be “semi-finished” and “must already have its final contour, since a further contouring by the foaming of the semi-finished molded product 7 into a component 1 no longer brings about any molding of this side 10.” Column 3, lines 42-50, emphasis original. Applicants respectfully disagree that a piece “already hav[ing] its final contour” is similar to Applicants’ flat sheets. There is no evidence or suggestion in Seeliger of a configuration which uses only a flat sheet. See, *Ex Parte Katoh et al*, Appeal 20071460, Decided May 29, 2007. To the contrary, the Seeliger et al. teachings are inapposite to Applicants’ claimed invention as amended. Specifically, at Column 3, lines 41-59, Seeliger recites:

For this purpose, the semi-finished molded product 7 is placed in a foaming mold 9, and the foaming is effected in situ in the foaming mold 9. **One wall 12 of the foaming mold 9 supports**

a side 10 of the semi-finished molded product 7 essentially over its surface, so that this side 10 must already have its final contour, since a further contouring by the foaming of the semi-finished molded product 7 into a component 1 no longer brings about any molding of this side 10.

(Emphasis added).

In light of the mandate of *Seeliger*, Applicant respectfully asserts that the rejection is insufficient because the Office has not provided “some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006), cited in *KSR Int’l v. Teleflex Inc.*, 127 S.Ct. 1727, 82 USPQ2d 1385 (2007). The assertion that *Seeliger* can be modified to use only flat sheets is not presented in light of a rational underpinning because *Seeliger* clearly discloses that the side 10 must already have its final contour to be accommodated in the foaming mold. Rather, the assertion that *Seeliger* can be modified to use only flat sheets is conclusory, and “rejections on obviousness grounds cannot be sustained by mere conclusory statements...” *Id.*

As such, Applicants submit that *Seeliger et al.* teaches away from Applicants’ claimed invention as amended, and that the Office has not provided “articulated reasoning with some rational underpinning” to support the obviousness rejection. Therefore Applicants submit that one skilled in the art would not look to combine *Seeliger et al.* with *Rashid et al.* to form the claimed invention.

Applicants further maintain that the addition of *Rashid et al.*, directed to quick plastic forming, does not provide the parameters lacking in *Seeliger et al.* to provide Applicants’ specific foaming and shaping of the materials to form the composite structure. Moreover, neither *Rashid et al.* nor *Seeliger et al.* provides direction or incentive to combine the teachings or to combine the teachings while eliminating the “must already have its final contour” mandate set by *Seeliger et al.* Applicants respectfully assert that an elimination of

the Seeliger et al. mandate destroys the Seeliger et al. reference. Applicants further respectfully assert that to arrive at Applicants' claimed invention as amended upon combining Rashid et al. and Seeliger et al. and selectively omitting the mandate set by Seeliger et al., is only achieved using hindsight.

As the combination of Seeliger et al. and Rashid et al. does not teach or suggest Applicants' claimed invention as amended, and the application of hindsight is impermissible, the §103 rejection is improper. Reconsideration and removal of the claim objections are respectfully requested.

Claim 17 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Seeliger et al. in view of Baumeister (U.S. Patent No. 5,151,246) and further in view of Rashid et al. This rejection is respectfully traversed.

The addition of Baumeister does not remedy the shortcomings of the combination of Seeliger et al. and Rashid et al. Baumeister merely details the materials and does not provide further guidance regarding taking a flat metal sheet, foaming precursors attached to the flat metal sheet layer, and shaping the flat metal sheet layer in a forming tool cavity such that the flat metal sheet layer assumes the curved dimensions of the forming tool cavity.

As the addition of Baumeister does not remedy the shortcomings of Seeliger et al. and Rashid et al., the §103 rejection is improper. Reconsideration and removal of the claim rejections are respectfully requested.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: 2-21-2008

By: 

Christopher A. Eusebi, Reg. No. 44,672

CORRESPONDENCE ADDRESS:
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

CAE/SDJ/lf-s/tp